

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Macquarie Bank Limited and	)	
Macquarie Americas Corp.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:08-cv-48
	)	
Bradley D. Knickel, LexMac Energy. L.P.,	)	<b>ORDER</b>
Lexar Energy, Inc., Novus Operating	)	
Company, LP, KHL, Inc., and	)	
Mineral Land Services, Inc.,	)	
	)	
Defendants.	)	

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A telephonic hearing was held on May 1, 2009, with respect to defendants' pending motion to compel the taking of the deposition of Gavin Bradley, an employee of plaintiff Macquarie Bank at its headquarters in Sydney, Australia. The defendants are seeking an order compelling Mr. Bradley to attend a deposition in the United States and that the court require that it be a Rule 30(b)(6) deposition given what defendants' claim is the lack of responsiveness of a prior Rule 30(b)(6) deponent for the Bank.

During the hearing, plaintiffs agreed to make Mr. Bradley available for a deposition in Houston, Texas, sometime during July 2009 on a date to be worked out by counsel. Although the court has the authority to compel that it be Rule 30(b)(6) in the event of past noncompliance, the court will not require it in this instance because it does not believe that the claimed noncompliance was of a level that would justify such drastic action. This, however, does not prohibit the defendants from serving another Rule 30(b) notice nor does it prohibit the plaintiffs from designating Mr. Bradley as the Rule 30(b)(6) deponent for some or all of the topics listed in the notice.

Based on the foregoing, defendant's motion (Doc. No. 71) is **GRANTED IN PART** to the extent that Mr. Bradley will make himself available for a deposition in Houston, Texas, on a date to be agreed upon by counsel and **DENIED IN PART** to the extent defendants seek an order compelling that it be a Rule 30(b)(6) deposition.

**IT IS SO ORDERED.**

Dated this 4th day of May, 2009

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court